

REMARKS

At the outset, The Applicants thank the Examiner for the thorough review and consideration of the pending application. The Office Action dated July 28, 2006 has been received and its contents carefully reviewed.

Claims 1-17 are currently pending. Reexamination and reconsideration of the pending claims are respectfully requested.

The Applicants wish to thank the Examiner for indicating that claims 1-17 would be allowable if rewritten to overcome the 35 U.S.C. § 112, second paragraph rejection.

The Office Action rejected claims 1-17 under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. More specifically, the Office Action questions “how the drainpipe is communicating with said tub” and further asserts that “the term communicating is indefinite in that it may implicate communication that is in connection with the tub by a pipe found in a part that is not specifically beneath the tub.” The Office Action further questions “how the drainpipe’s second orifice is connected to the drainpipe” and asserts that “by claiming the drainpipe’s second orifice is ‘provided at one side thereof’ does not delineate a structural relationship as required by the actual invention.” The Office Action also questions the term “communicating” asserting that it “is unclear in claiming how the water draining hose actually connects to the first orifice with the second orifice in view of the scope of the invention.” The Applicants respectfully traverse this rejection.

The Applicants submit that the claims adequately point out and distinctly claim the subject matter that is regarded as the invention. All of the issues raised by the Examiner are drawn to the breadth of the claims, not the clarity of the claims. Breadth of a claim is not to be equated with indefiniteness. See the M.P.E.P. 2173.04. If the scope of the subject matter embraced by the claims is clear then the claims comply with 35 U.S.C. § 112, second paragraph. In the present case, the claims are clear.

With regard to the assertion that the term “communicating” is indefinite because it may implicate communication between the tub and the pipe that is not specifically beneath the tub, the Examiner is reading limitations into the claims that are clearly neither present nor required. Nowhere in the specification and claims does it state that the pipe must be specifically beneath the tub. The pipe is shown beneath the tub in Figure 3 as an example of one embodiment of the invention. This location cannot be construed as the only possible location. Thus, the term “communicating” may broadly cover pipes beneath the tub and pipes that are not beneath the tub; however, this does not render the term “communicating” indefinite.

With regard to the assertion that the claims are indefinite because “the drainpipe’s second orifice is ‘provided at one side thereof’ does not delineate the structural relationship as required by the actual invention”, the Examiner once again is reading limitations into the claims that are neither present nor required. The structural relationship between the second orifice and the drainpipe is clear. As stated in claim 1, the second orifice is at one side of the drainpipe. The fact that this feature is broadly claimed is not grounds for indefiniteness.

With regard to the assertion that it is unclear how the water draining hose actually connects the first orifice with the second orifice, how the hose actually connects is not particularly relevant to the invention. Thus, requiring Applicants to add a limitation defining this connection would unnecessarily limit the scope of the invention.

The Examiner provided suggestions for amending claim 1 to overcome the 35 U.S.C. § 112, second paragraph rejection. The Applicants appreciate these suggestions; however for the reasons set forth above, such amendments would unnecessarily narrow the scope of the claims.

For the above reasons, the Applicants submit that claim 1 is allowable and request that the rejection be withdrawn. Likewise, claims 2-17, which depend from claim 1 are also allowable for at least the same reasons.

The application in condition for allowance and early, favorable action is respectfully solicited. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to

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discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: October 26, 2006

Respectfully submitted,

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